

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JOHN RUFFINO and)
MARTHA RUFFINO,)
Husband and Wife,)
Plaintiffs,)
vs.) No: 3:17-CV-00725
DR. CLARK ARCHER and) Jury Demanded
HCA HEALTH SERVICES)
OF TENNESSEE, INC. d/b/a) Judge Crenshaw
STONECREST MEDICAL CENTER,) Magistrate
Defendants.) Judge Newbern
-----)

DEPOSITION OF:

DR. CLARK ARCHER

Taken on Behalf of the Plaintiffs

November 17, 2017 at 10:00 a.m.

Beverly L. Jones, Licensed Court Reporter
3901 West End Avenue
The Rokey Suite 906
Nashville, TN 37205
(615) 499-9092

APPEARANCES

For the Plaintiffs:

Brian Cummings, Esq.
Cummings & Manookian, PLC
45 Music Square West
Nashville, Tennessee 37203

Afsoon Hagh, Esq.
Cummings & Manookian, PLC
45 Music Square West
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For the Defendants:

James E. Looper, Esq.
Hall, Booth, Smith, P.C.
424 Church Street, Suite 2950
Nashville, TN 37219

C. J. Gideon, Jr.
Gideon, Cooper & Essary, PLC
315 Deaderick Street, Suite 1100
Nashville, TN 37238

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I N D E X

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EXAMINATIONS

3

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By Mr. Cummings 5

5

EXHIBITS

6

Exhibit No. 1 163

Set of medical records

7

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NOTE: WORD INDEX BEGINS ON PAGE 168

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STIPULATIONS

2 It is hereby stipulated and agreed by
3 and between the parties hereto, through their
4 respective attorneys of record, that this
5 deposition may be taken at the time and place
6 hereinbefore set forth, by Beverly L. Jones,
7 Licensed Court Reporter and Notary Public,
8 pursuant to the Tennessee Rules of Civil
9 Procedure, as amended;

10 That the formality of READING AND
11 SIGNING is specifically REQUESTED;

12 That all objections, except as to the
13 form of the questions and the responsiveness of
14 the answers, are reserved until such time as
15 this deposition, or any part thereof, may be
16 used or is sought to be used in evidence.

18 DR. CLARK ARCHER.

19 was called as a witness, and having been first
20 duly sworn, testified as follows: "I do."

Deposition of Dr. Clark Archer

1 work in the ER currently at Summit Medical
2 Center?

3 A. 14, roughly.

4 Q. Is that shifts or hours?

5 A. Shifts.

6 Q. When did you first work in the ER at
7 StoneCrest? And again, if you've got to
8 estimate when that was, just tell us it's an
9 estimate.

10 A. An estimate. When did I first work
11 there, sir?

12 Q. In the ER, yes, sir.

13 A. 2006 or 2007 would be an estimate. It
14 might have been later.

15 Q. Through what either relationship or
16 agreement do you work in ER's at HCA related
17 hospitals?

18 A. In what agreement? I'd have to really
19 pull my contract to find that. I'll be quite
20 honest, because there is a -- it's a -- over the
21 years, if you have seen our contracts, they have
22 changed on occasion. So the exact entity I was
23 or have been under with HCA/my other company I
24 work is -- I can't -- I don't know at this
25 present time.

Deposition of Dr. Clark Archer

1 Q. Sure. I understand, and I think I asked
2 a question that wasn't very helpful for getting
3 and answer from you.

4 Are you an employee of HCA or any other
5 entities?

6 A. Of HCA or any other entities?

7 Q. Or any of their entities.

8 MR. LOOPER: Object to the
9 form.

10 A. I would still have to look at my
11 contract because of the myriad of companies that
12 I think I have on my contract.

13 Q. When you currently go to work at an ER
14 in an HCA-related hospital, is that through a
15 contract just with you, or with a group that
16 you're a part of, or some other situation?

17 A. If I'm not mistaken, again, forgive me
18 if I in any way misstate because I don't have
19 the contract in front of me, but I -- I -- we
20 have similar contracts among partners that I
21 work with. Partners is a loose term I guess.
22 People that I work with, ER docs. But I believe
23 mine is separate and apart from everyone
24 else's.

25 Q. When you say "we" and you may have said

Deposition of Dr. Clark Archer

1 have a contract, who's the "we"? Is there an
2 entity?

3 A. Not that I'm aware of. I think it is
4 solo with me.

5 Q. At any time, have you reviewed the
6 policies and procedures at StoneCrest that apply
7 to ER care?

8 A. I don't know if I have the exact form
9 that you are maybe speaking of, but in general,
10 I have reviewed a bunch of different modalities
11 of medical care that we would provide at
12 StoneCrest Medical Center.

13 Q. Do you know whether you have reviewed
14 policies and procedures that StoneCrest has had
15 that apply to the care in the ER?

16 A. Depending on what would come across, you
17 know, our desks at a given time, we've -- you
18 know, that's a big term. There is a lot of
19 forms on that discussion. Partially, I would
20 say, yes. With exactness to the entire broad
21 spectrum of care rendered at any emergency
22 department, I would say probably very few people
23 have read every page.

24 Q. When you worked in the StoneCrest ER in
25 2006, were you required to follow the policies

Deposition of Dr. Clark Archer

1 tell me what you mean by that.

2 A. Well, I wasn't on duty until noon,
3 roughly. So 12:20 was when I would recall that
4 I walked into the room to greet and take care of
5 John Ruffino.

6 Q. Did your care and treatment of
7 Mr. Ruffino start at around 12:20 on
8 February 17, 2016?

9 A. Based on the record, with distant
10 memory, that would be accurate.

11 Q. Would you agree that 12:20 is less than
12 four hours after 8:30 that same morning?

13 A. 12:20 is less than four hours from when?

14 Q. 8:30 that same day. That morning.

15 A. I would agree that 12:20 is I believe
16 three hours and 50 minutes.

17 Q. Would you agree that 12:20 is less than
18 six hours from 8:30 in the morning that same
19 day?

20 A. I would agree that that is true.

21 Q. Do you agree that Mr. Ruffino did not
22 have a role in selecting you as one of his ER
23 physician providers?

24 MR. LOOPER: Object to the
25 form.

Deposition of Dr. Clark Archer

1 A. I would agree that he did not have
2 selection of his ER provider.

3 Q. Did you and Mr. Ruffino have a
4 physician/patient relationship at any point on
5 February 17, 2016?

6 A. From 12:20 on, we entered into a
7 patient/physician relationship.

8 Q. Do agree that once you had a
9 physician/patient relationship with Mr. Ruffino
10 on February 17, 2016, you owed him certain
11 duties from a health care prospective?

12 A. Depending on how you define those
13 duties, I would treat him as anybody rendering
14 the need for the possibilities of emergency
15 care.

16 Q. Was one of the duties you owed John
17 Ruffino on February 17, 2016, to provide
18 appropriate medical care based on his situation
19 and needs?

20 A. I would agree that based on his
21 presentation that any -- that you would provide
22 accordingly to his symptomatology needs. I
23 would agree.

24 Q. Is the sudden onset of weakness a
25 neurological change?

Deposition of Dr. Clark Archer

1 says, Yes?

2 A. I do.

3 Q. Are you aware of any weakness issue in
4 any part of the body that's documented in this
5 note?

6 A. Any weakness in any part of the body?
7 So dizziness is documented above. Any focal
8 weakness documented? I see no clear evidence
9 that there is weakness according to Tony
10 Bromley's note.

11 Q. What did Nurse Bromley tell you on
12 February 17, 2016 about what he knew regarding
13 Mr. Ruffino's history or problems?

14 A. I don't know that I can recall any
15 definite exact discussions. I do know the
16 patient presented by ambulance. Again, this may
17 or may not be from Tony, and the initial
18 presentation was dizziness. And I guess we can
19 addendum seizure on the differential by the way.
20 But concerns of a man that is dizzy, with a
21 history of seizures, that did not take his
22 Neurontin that day.

23 Q. Do you remember anything else Nurse
24 Bromley told you on February 17, 2016, and by
25 told you I mean orally, and I think you knew

Deposition of Dr. Clark Archer

1 that --

2 A. Yes, sir.

3 Q. -- regarding Mr. Ruffino?

4 A. I truly cannot state. I cannot
5 recollect.

6 Q. Please turn to page 13. Do you see the
7 19:25 note by Nurse -- I'm going to spell it
8 T-E-L-E-G -- Mr. Gideon, you might know if
9 that's an O-Y?

10 A. I don't see it yet, but I know that --

11 Q. It's in the right column, two-thirds of
12 the way down.

13 A. Right column, two-thirds of the way
14 down. 19:25?

15 Q. Yes.

16 A. Okay.

17 Q. You see the note; correct?

18 A. I believe I do, yes, sir.

19 Q. Okay. Do you see the category that
20 says, Ongoing signs and symptoms?

21 A. I do, yes.

22 Q. And it says, Dysphagia, right arm
23 weakness; correct?

24 A. I see that.

25 Q. Do you know when those started, either

1 **REPORTER'S CERTIFICATE**

2 I, BEVERLY L. JONES, Licensed Certified
3 Court Reporter, Notary Public in and for the
4 State of Tennessee at Large,

5 DO HEREBY CERTIFY that the foregoing is
6 a true and accurate transcript of the testimony
7 as taken stenographically by me at the time,
8 place, and on the date hereinbefore set forth;
9 and that the foregoing pages constitute a true
10 and correct transcription of said proceedings to
11 the best of my ability.

12 I DO FURTHER CERTIFY that I am neither a
13 relative nor employee nor attorney nor counsel
14 of any of the parties to this action, and that I
15 am neither a relative nor employee of such
16 attorney or counsel, and that I am not
17 financially interested in the action.

18 Taken, November 17, 2017.

19 IN WITNESS WHEREOF, I have hereunto
20 affixed my official signature and seal of office
21 this 5th day of December, 2017, at Nashville,
22 Tennessee.

23 *Beverly L. Jones Digitally signed: 8:12 p.m.*

24 -----
25 Beverly L. Jones, LCR #374
 My license expires: June 30, 2018
 Notary Public At Large State of Tennessee
 My commission expires: May 8, 2018